IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FIRST DAY OF JUNE

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 804 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12/02/2004 in WP NO : 4917 OF 1997 on the file of the High Court.)

Between:

Shaik Mahaboob Basha, S/o.Baba Shab,
R/o.Boddapalem (V), Kandukur Manda,
Prakasam Dist.

..... APPELLANT

AND

1 The Reg.Manager, APSRTC, Prakasam Region,Ongole,Prakasam Dist.
2 The Depot Manager, Kandukur, APSRTC.,Prakasam Dist.

.....RESPONDENTS

For the Appellant:MR.S.VENKATA SUBBA RAO

For the Respondents: MR.VENKATESWARLU POSANI

The Court made the following:

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ORAL ORDER: (per GB.J.)

The Writ Appeal is filed assailing the order passed by the learned single Judge in Writ Petition No.4917 of 1997, dated 12.2.2004.

2. The appellant was employed as Driver in the APSRTC. On 8.2.1993 departmental proceedings were initiated against him alleging that he caused an accident by driving the bus negligently. Thereafter, an enquiry was conducted and ultimately he was removed from service on 10.8.1993. The appeal filed by the appellant was also rejected. But, however, the criminal case filed against the appellant ended in acquittal and the learned Judicial First Class Magistrate, Podili, by his Judgment dated 29.9.1995 in CC.No.58 of 1993 acquitted the appellant on merits. Thereafter the appellant filed a Review seeking reinstatement on the ground that the criminal Court has acquitted the appellant. The said Review was also dismissed. Thereafter the appellant filed Writ Petition No.4917 of 1997. The learned single Judge, after considering the matter, held that the appellant is not entitled for any relief as the degree of proof that is required in the criminal case is different than that is required in departmental enquiry, and therefore the petitioner-appellant was not entitled for any relief, and dismissed the Writ Petition. Against the dismissal of the Writ Petition, the present Writ Appeal has been filed.

3. The learned counsel for the appellant submits that when the criminal Court acquitted the appellant on the same set of facts on which he was removed earlier, the authorities ought to have reviewed the matter and pass appropriate orders and reinstated him into service, and therefore the order is liable to be set aside.

4. We are afraid we cannot accept the contention raised by the learned counsel for the appellant. When the appellant was acquitted in

the criminal case, departmental proceedings were not pending. If the departmental proceedings were pending as on the date when the appellant was acquitted, it would have been proper on the part of the APSRTC to consider the judgment of the criminal Court also. But in the instant case that situation did not arise. Under those circumstances, we are of the considered view that the order passed by the learned single Judge cannot be said to be suffered from any infirmity or illegality.

5. The learned counsel for the appellant, however, submits that the appellant wants to raise a dispute before the Industrial Tribunal challenging the order of removal in view of the acquittal by the criminal Court. We do not record any findings on this aspect. If the appellant has a right to move any forum under the Industrial Disputes Act, it is open for him to approach the same.

6. In the result, the Writ Appeal is dismissed. No costs.

(G.BIKSHAPATHY, J.)

21st June, 2004.

(B.SESHASAYANA REDDY, J.)

SSR

Copies to

1. The Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal)

2. The Hon'ble Sri Justice B.Seshasayana Reddy (for His Lordship's kind perusal).

3. The Reg.Manager, APSRTC, Prakasam Region,Ongole,Prakasam Dist.

4. The Depot Manager, Kandukur, APSRTC.,Prakasam

Dist.
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